SUPREME COURT, U.S.

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IN THE

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1955.

No. 150.

W. A. SHIELDS,
Petitioner,

vs.

ATLANTIC COAST LINE RAILROAD COMPANY,
Respondent.

On Writ of Certiorari to the United States Court of Appeals for the Fifth Circuit.

BRIEF FOR THE PETITIONER.

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BRIEF FOR THE PETITIONER.

OPINIONS BELOW.

The judgment of the District Court (R. 297-298) is unreported. The opinion of the Circuit Court of Appeals (R. 341 et seq.) is reported at 220 F. 2d 242.

JURISDICTION.

The judgment of the Court of Appeals was entered March 17, 1955. The petition for certiorari was filed June 14, 1955, and was granted October 10, 1955. The jurisdiction of this Court rests on 28 U. S. C. Section 1254 (1).

STATUTES AND REGULATIONS INVOLVED.

The pertinent statutory provisions (45 U. S. C., Sections 11 and 12) are set forth in Appendices A and B. The pertinent regulations (Code of Federal Regulations, Title 49, Transportation, Sections 131.8 and 131.9) are printed in Appendices C and D.

QUESTION PRESENTED.

Are railroads relieved of the obligation imposed by 45 U. S. C., Section 11, to keep a designated appliance "secure" by reason of the fact that the Interstate Commerce Commission has not adopted a regulation standardizing and making uniform such an appliance?

STATEMENT.

On May 6, 1952, petitioner, an independent contractor, was instructed by the consignee of a tank car of gasoline to unload the tank car which had been placed on a siding in the freight yards of the respondent, Atlantic Coast Line Railroad Company in Montgomery, Alabama (R. 24, 25, 117, 118, 130, 131). At the time of his injury petitioner had been engaged in the business of unloading gasoline and related work for about twenty-five years (R. 129). The gasoline in the tank car which petitioner was to unload (SHPX 21336) was released out the bottom of the car by means of a flexible hose (R. 129, 130). But in order for the gasoline to flow out of the tank it is necessary for the dome cap on the top of the car to be removed and a valve inside the dome to be opened (R. 130). The dome cap, to which the railroad attaches the usual seal, is heavy and normally requires two men to handle (R. 129, 130).

After removing the dome cap and checking the valve, petitioner attached the flexible hose to the tank car (R.

132). He and his helper then climbed to the top of the car to open the valve (R. 132). Petitioner stepped on the running board which runs along the side of the tank near the top. The board broke causing him to fall to the tracks below (R. 132), inflicting painful and permanent injury to the vertebrae in his back. The running board upon which petitioner stepped was knotty, cracked and so rotten and crumbly it could be mashed in one's hand (R. 135).

As last amended, the complaint stated a cause in two counts against Atlantic Coast Line Railroad Company as delivering carrier and Southern Railway Company as originating carrier (R. 32-38). A verdict was directed for Southern (R. 273) which verdict was affirmed on appeal; Southern does not enter into the question presented before this Court and no further reference will be made to it.

In compliance with the admonition of this Court in **O'Donnell v. Elgin**, 338 U. S. 384, the complaint as to Atlantic separated into two counts the cause of action based on negligence and the cause of action for violation of the Safety Appliance Act in failing to maintain a "secure running board" as required by the Act (45 U. S. C., Section 11). At the conclusion of the trial, the Court charged the jury that the defective running board was covered by the Act and that it was for the jury to determine whether the running board was secure, and if not secure, whether petitioner was injured as a proximate result of its insecure condition (R. 274, 275). The trial court also charged the jury on the law as to the negligence count (R. 275-278). The jury returned a general verdict for petitioner against Atlantic for $7,500 (R. 297).

Atlantic's theory throughout the trial and on appeal was that the defective running board was not a safety appliance within the protection of the Safety Appliance Act because the Interstate Commerce Comission standardiza-

tion regulations relating to running boards on tank cars (Sections 131.8 and 131.9, Title 49, Code of Federal Regulations, Appendices C and D) do not include the defective running board in this case.

Atlantic appealed and the Court of Appeals, Fifth Circuit, reversed. On appeal, the Court adopted, as the basis of its decision, the argument of Atlantic that since the ICC had not made an order standardizing the running board in question as to "number, dimension, location, and manner of application," under the authority granted it in 45 U. S. C., Section 12, the board was not a running board within the Safety Appliance Act.

SUMMARY OF ARGUMENT.

Section 11 of the Safety Appliance Act provides that ". . . all cars requiring secure ladders and secure running boards shall be equipped with such ladders and running boards . . ." Section 12 of the Act grants to the ICC authority to fix by regulation "The number, dimension, location, and manner of application of the appliances provided for by Sections 4 and 11 of this title . . ." Petitioner was injured as a result of a defective running board which had not been included by the ICC in its regulations, adopted under Section 12 for the purpose of giving uniformity of size, character, and placement of safety appliances provided for by Section 11. The Court below decided that the fact that ICC had not included the particular running board in its uniformity regulations operated as an administrative ruling, binding on petitioner and the Trial Court, that as a matter of law the particular running board was not required to be secure. The proper construction to be given the two Sections is that Congress has commanded by Section 11 that all running boards (which includes the defective board in this case) be secure, and by Section 12 Congress has commanded further that those appliances named in Section 11 shall conform to the uniformity orders of the ICC when such orders are made.

ARGUMENT.

Congress has commanded that "all cars requiring secure ladders and secure running boards shall be equipped with such ladders and running boards . . ." 45 U. S. C., Section 11 (Appendix A). Petitioner suffered his injuries when a knotty, cracked, crumbly and rotten running board broke beneath him. Although the Court of Appeals refers to the defective board as a "dome step board" the record fully sustains the Trial Court's characterization of the appliance as a running board. Experienced railroad witnesses for both sides called it a running board (R. 180, 193, 259). Atlantic in its answers to interrogatories made by one of its superintendents refers to the defective board as a "running board" seven times (R. 24-30). Atlantic's repair records on the tank car, made long before there was litigation, call it a "dome running board" (Plaintiff's Exhibit 7, R. 184, 185). Even counsel for Atlantic referred to it as a running board during the trial (R. 194, 242, 259).

The defective board is used for standing and walking especially in loading and unloading of the tank car (R. 129, 130, 248, 249). This fact is common knowledge in the railroad business (R. 248). This particular board is also used by employees of the railroad in the course of their employment in passing hand signals, making temporary repairs or adjustments and replacing dome caps which have worked loose while a car is en route (R. 179).

This Court has stated clearly and repeatedly the congressional purpose intended to be accomplished by the Safety Appliance Act.

> "The Safety Appliance Act (45 U. S. C. A., Sec. 1, et seq.) has been liberally construed so as to give a right of recovery for every injury the proximate cause of which was a failure to comply with a requirement of the act." **Swinson v. Chicago, St. P., M. & O. Ry. Co.**, 294 U. S. 529.

"The Federal Safety Appliance Act is remedial, to protect employees and the public from injury because of defective railway appliances . . ." **United States v. State of California**, 297 U. S. 175.

"And this Act, fairly interpreted, must be held to protect all who need protection from dangerous results due to maintenance or operation of congressionally prohibited defective appliances." **Coray v. Southern Pacific Company**, 335 U. S. 520.

In this case petitioner was injured as a proximate result of an insecure, rotten running board. Petitioner, is a member of the general public who in the daily course of his duties must work on and around railroad equipment. Just as well as the railroad employees who must use running boards such as the one in question, he also needs protection from defective appliances.

Atlantic argued and the Court of Appeals decided that because the ICC in its regulations giving uniformity to certain appliances on certain kinds of tank cars (Section 131.8 and 131.9, Title 49, Code of Federal Regulations, Appendices C and D) did not include the running board in question, the board, as a matter of law, could not be a safety appliance within the scope of the Safety Appliance Act. The effect of this decision is that the ICC by regulating or failing to regulate "number, dimensions, location and manner of application" of railroad appliances has the authority to decide by its administrative orders which appliances Congress intended to be made safe and this administrative finding is binding on the Court and injured parties. The decision pre-empts any field of operation for Section 11 of the Act and is contrary to the congressional intent and the practical interpretation given the Act by the ICC.

Section 11 (Appendix A) provides that "all cars requiring secure ladders and secure running boards shall be equipped with such ladders and running boards. . . ."

Section 12 (Appendix B) grants to the ICC authority to fix by regulation "the number, dimensions, locations and manner of application of the appliances provided for by Sections 4 and 11 of this title. . . ." There is a clear field of operation for both Sections. In the first Section Congress has declared an absolute standard of safety for ladders and running boards, i. e., they must be "secure." In the second Section Congress has commanded that where the ICC has standardized as to "number, dimension, location and manner of application" a ladder or running board in addition to being secure must also conform to the ICC uniformity order or be in violation of the Act.

The Court of Appeals found:

> "Nowhere in the regulations adopted by the Interstate Commerce Commission relating to tank cars, as set forth in Sees. 131.8 and 131.9, Title 49 (Transportation), Code of Federal Regulations, or else where, will there be found any reference to a dome step board, by whatever name that device might be labeled. By its very failure to prescribe any regulation governing such a device, the Interstate Commerce Commission has demonstrated its administrative determination that dome step boards do not fall within the scope of the Act."

The Court below thus clearly implies that the safety of working conditions intended by Congress to be assured by the Safety Appliance Act is to be limited by the scope of regulations seeking to give uniformity to satety appliances. The ICC regulations themselves make clear that safety (i. e., secure appliances) and uniformity are not co-terminous. For example, the regulations on running boards on tank cars (Appendix C and D) deal specifically with number, dimension, location and the manner of application, and they contain no requirement that running boards must be secure or not rotten and defective. They

do not deal with the material out of which running boards are to be made (cf. as to ladders, Sec. 131.8, Appendix C). Obviously this omission was made because Congress by Section 11 of the Act already had protected against appliances made from rotten material and an ICC regulation on such a subject was unnecessary. Under the Fifth Circuit's decision a rotten but uniform running board could not give rise to liability since the regulations do not prescribe materials for construction. Would an ICC inspector be without authority to penalize for a rotten running board so long as the appliance is the required size and fastened to the car in the prescribed manner? Is it not more probable that more people would be injured by rotten running boards than by those not of uniform size and location? Actually, it is clear that the Congressional intent was to protect against both kinds of dangers.

It is a matter of common knowledge that railroad cars are being redesigned and changed by the railroad industry. In the case of tank cars, there are several different types in use at the present time (R. 181, 182). It is natural that when changes in design result in additional appliances, the appliances may not be reflected immediately in ICC regulations. Assume that by ICC order boxcars were required to have ladders on only one side of a car. If boxcars were redesigned so as to place additional ladders on the other side, Atlantic would argue that there could be no liability under the Safety Appliance Act for a defective condition in the additional ladders until such date as the ICC issued a regulation fixing a new number of ladders per car and the dimensions, location and manner of application of the additional ladders. Suppose the ICC regulations called for only one grab iron at the top of a designated ladder. Atlantic contends that if a person were injured as a result of a second and defective grab iron, the Act's protection could not be invoked. The analogy would be true

as to a second and defective handbrake or any other safety appliance. Certainly, it is not the Congressional purpose that regulations of the ICC designed to protect the user by uniform appliances operate to place him at the mercy of unsafe appliances. The worker does not choose at his peril between two running boards, both designed to be stood on and walked on, but one standardized and the other not. The purpose of the Safety Appliance Act is to protect the worker from unsafe, congressionally-named appliances, not merely unsafe appliances made uniform by order of the ICC.

Section 12 grants the ICC authority to change and amend its orders. Assume that this year the ICC amended its regulations covering running boards on tank cars so as to omit the running boards presently included and add the running board which was defective in this case. Under the Atlantic position, the appliance named in the hypothetical order would become a safety appliance for the first time and the omitted appliance would cease to be a safety appliance, all 45 years after Congress declared that "all cars requiring secure ladders and secure running boards shall be equipped with such ladders and running boards . . .". The true interpretation of the field of operation for the two sections is that since the enactment in 1910 of Section 11 all ladders and running boards must be secure and when and where the ICC has required an appliance to be uniform by its regulations, railroads have the additional duty of meeting the mechanical specifications of the ICC order. But the ICC by regulation can neither add to nor subtract from the list of appliances which must be secure. Congress having listed these appliances has granted the ICC only the power to make regulations concerning the congressionally-enumerated appliances when in the discretion of the ICC uniformity is necessary for the additional protection of those working about railroad cars.

It is significant that the authority of the ICC is to fix by regulation certain qualifications of the appliances provided for by Sections 4 and 11. This cannot properly be construed to mean that a running board under Section 11 is any less a running board, or any less a safety appliance, by reason of the absence of a regulation referring to it.

Also it is significant that Section 12 provides "... failure to comply with any such requirement of the Interstate Commerce Commission shall be subject to a like penalty as failure to comply with any requirement of Sections 11-16 of this title." If Atlantic's position is correct there would be no need for the quoted provision. If a railroad can satisfy its obligations under the Safety Appliance Act by complying with the ICC regulations promulgated under Section 12, how could a penalty be imposed for failure to comply with Section 11? Under Atlantic's construction there could be no violation of Section 11 which would not be also a violation of Section 12.

The Court of Appeals suggests in its opinion that the Safety Appliance Act could not be properly administered if railroads are to be held liable under the Act for the defective condition of appliances which have not been standardized. The Court stated:

> "As appellant correctly points out in the discussion in its brief, a chaotic condition would be produced if the question of compliance with the Safety Appliances Act and the specifications governing the number, location, dimension and manner of appliances should be left to the varying motions of judges or the inexperienced laymen who comprise petit juries."

Surely no hardship could fall on a railroad by requiring it to keep the appliances designated in the Safety Appliance Act in a secure condition whether those appliances have been standardized or not. Running boards, ladders, sill steps and grab irons are placed on railroad cars so

that those working about the cars may do so efficiently. Congress in the Safety Appliance Act has said that workers should also be able to work about the cars safely. The real chaotic condition will result if only those running boards, ladders, sill steps and grab irons required as a matter of uniformity need be secure and all others can be defective without statutory liability. If a worker is required to use a running board to put the tank car to the use for which designed and intended, he uses the board because it is there and is functionally necessary and presumably secured. And he so uses it without regard to whether it is one of the running boards made uniform and whether there is a uniform board elsewhere on the car.

This Court made clear at an early date that the authority of the ICC under Section 12 to make appliances uniform does not limit the rights of a person injured because of the defective condition of an appliance commanded by Section 11 to be kept safe. In **Illinois Central Railroad Company v. Williams**, 242 U. S. 462, the plaintiff was injured in 1913 when a grab iron at the top of a boxcar gave way. Grab irons, like running boards, are required by Section 11 of the Act, enacted in 1910, to be secure. Although at the time of injury the ICC had promulgated a standardization order, the effective date of the order had been postponed by the ICC until 1916. In **Williams** the railroad argued that since the ICC with full authority had postponed until 1916 the effective date on which the grab irons should conform to the regulation, the grab iron could be insecure prior to 1916 without statutory liability of the railroad. In substance, the railroad in the **Williams** case advanced the same construction of Sections 11 and 12 as made by 'Atlantic' and adopted by the Court below, i. e., that Section 11 must be so absorbed by Section 12 as to grant to the ICC exclusive authority not only to standardize and make uniform safety appliances but also to designate which appliances

are safety appliances and to fix by its orders and regulations the time when appliances are to become safety appliances.

This Court in **Williams** rejected the railroad's argument and held the defendant liable under the Safety Appliance Act for violating the requirement of secure grab irons. The opinion discusses the congressional purpose of enacting both Sections 11 and 12 of the Act. The purpose of Section 11 is stated to be "to convert the general legal duty of exercising ordinary care to provide such safety appliances and keep them in repair into a statutory, an absolute and imperative, duty of making them 'secure' and to enforce this duty by appropriately severe penalties." As for Section 12, the purpose is shown to be to require that the secure appliances shall ultimately conform to uniform location, size and character determined by ICC regulations.

Atlantic in its brief in opposition to the petition for certiorari takes the position that once the ICC has promulgated a regulation covering a particular appliance the **Williams** case is "obsolete and without legal effect." But the principle of the **Williams** case is that even though the ICC has no regulation in effect as to a particular appliance, the railroad has the duty of maintaining the appliance in a secure condition as required by the statute. In the present case petitioner seeks statutory protection against an insecure running board prior to any ICC uniformity order on this particular running board.

After the **Williams** case the Fourth Circuit decided **Davis v. Reynolds**, 280 F. 363, cert. den., 258 U. S. 627. In **Davis**, a railroad employee was injured when he slipped on a worn and slick sill step required by Section 11 to be secure. In affirming a judgment for the plaintiff the Court rejected the contention of the railroad that it had discharged its duty under the Safety Appliance Act with respect to sill steps when it securely fastened a step of the

materials and dimensions required by the ICC. The Fourth Circuit held as did the Court in the **Williams** case that the congressional mandate requiring secure appliances was not limited by the Commission's orders made pursuant to Section 12 of the Act.

Atlantic has taken the position that the present case is one like **Atchison, T. & S. F. Co. v. Scarlett**, 300 U. S. 471 and that the **Scarlett** case, in effect, overruled the **Williams** and the **Davis** cases. In the **Scarlett** case the plaintiff based his claim on a violation of the Act. The violation was alleged to consist of a brace rod that was in proximity to a ladder which brace rod caused plaintiff to fall when he stepped on it in the process of climbing the ladder. Although the Act designates ladders as safety appliances, it does not include brace rods. The ladder was "secure" (not defective) and its structure and location complied with ICC orders. Therefore this Court held that the Act was not violated by placing a brace rod within a permissible distance to the ladder. The running board in this case was not "secure". There is nothing in the opinion to substantiate the view that the regulations designed to give uniformity have the effect of abolishing statutory requirements of safety.

The rationale of the Ninth Circuit in **Southern Pacific Co. v. Carson**, 169 F. 2d 734, is the proper approach to the problem presented by this case. In the **Carson** case the plaintiff was injured when a wooden brake club used to wind the brake staff broke, causing plaintiff to fall from a cut of railroad cars. The staff brake complied with ICC standardization orders which made no mention of brake clubs. Plaintiff, claiming under the Safety Appliance Act, relied on the language of the Act requiring "efficient hand brakes." The railroad contended that since the staff brake fully complied with the ICC orders there could be no violation of the Act resulting from a defective brake club not included in the regulations. The Ninth Circuit in affirm-

ing a judgment in favor of the plaintiff held that it was properly a jury question to determine whether the brake was "efficient" because of the addition to the brake system of a defective brake club. In this case the bottom running board of the tank car met the mechanical requirements of the ICC (or, at least, there is no evidence that it did not), but the railroad should be liable under the Act for the addition of a defective top or dome running board to the system of running boards on tank cars used on its lines. As the opinion in the **Carson** case points out, it can be just as dangerous to add defective appliances to the standardized appliances as to fail to attach to a car an appliance required by the ICC.

Actually, it may be that the board in question is one of the running boards described in the ICC regulations. Section 131.8 (Appendix C) provides for one continuous running board around the sides and ends of the car or two side running boards. Car SHPX 21336 had a long board along each side near the wheels and lower than the board in question. However, under "Manner of Application," Section 131.8 shows the ICC contemplated that running boards may be above the center of the tank, as this one was, instead of below. Also under "Ladders" this section indicates that a running board may be sufficiently high so that ladders may be required to reach it, which was the case on this car (R. 137, 138). A horizontal side-handhold is required "attached to top of running board projecting outward above sill-steps or ladders on tank cars without side-sills." On this car there was a ladder leading to the defective running board and a horizontal handhold projecting downward from the running board (R. 137, 138).

Section 131.9 (Appendix D) provides for continuous boards only around sides and ends of the car. But it, too, reveals that the running boards may be above the center of the tank and that the car must have four sill steps if it has "high running boards making ladders necessary."

Horizontal side handholds are provided to be attached to the running board projecting downward or outward.

Petitioner feels that the running board here may be within the language of the regulations and he may have assumed too much in presenting the main thrust of his argument on the basis the regulations did not cover it. It is not his intention to waive the point. However, even if the regulations do not specifically cover they do show that ICC realizes a running board may be located high on a tank car (where it is usable for performing the unloading work which petitioner here was performing when hurt), and that a user in such a position is entitled to safe appliances in getting up and down and security while in place on the high board.

In conclusion petitioner submits that having been injured, as a proximate result of an insecure running board, he is entitled to invoke the benefits of the Act in seeking redress for his injuries. Belonging to a class intended to be protected by the Act he should not be denied that protection because the ICC orders designed to give uniformity do not list the defective appliance.

CONCLUSION.

For the reasons stated, it is respectfully submitted that the judgment of the Court of Appeals should be reversed.

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APPENDIX "A".

Statutes Referred To.

Title 45, United States Code.

Section 11. Safety appliances required for each car; when hand brakes may be omitted.

"It shall be unlawful for any common carrier subject to the provisions of Sections 1-16 of this title to haul, or permit to be hauled or used on its line, any car subject to the provisions of said sections not equipped with appliances provided for in sections 11-16 of this title, to-wit: All cars must be equipped with secure sill steps and efficient hand brakes; all cars requiring secure ladders and secure running boards shall be equipped with such ladders and running boards, and all cars having ladders shall also be equipped with secure handholds or grab irons on their roofs at the tops of such ladders: PROVIDED, That in the loading and hauling of long commodities, requiring more than one car, the hand brakes may be omitted on all save one of the cars while they are thus combined for such purpose. Ap. 14, 1910, c. 160, 2, 36 Stat. 298."

APPENDIX "B".

Statutes Referred To.

Title 45, United States Code.

Section 12. Safety appliances, as designated by commission, to be standards of equipment; modification of standard height of drawbars.

"The number, dimensions, location, and manner of application of the appliances provided for by sections 4 and 11 of this title as designated by the Interstate Commerce Commission shall remain as the standards of equipment to be used on all cars subject to the provisions of sections 1-16 of this title, unless changed by an order of said Interstate Commerce Commission, to be made after full hearing and for good cause shown; and failure to comply with any such requirement of the Interstate Commerce Commission shall be subject to a like penalty as failure to comply with any requirement of sections 11-16 of this title. Said commission is hereby given authority, after hearing, to modify or change, and to prescribe the standard height of draw-bars and to fix the time within which such modification or change shall become effective and obligatory, and prior to the time so fixed it shall be unlawful to use any car or vehicle in interstate or foreign traffic which does not comply with the standard now fixed or the standard so prescribed, and after the time so fixed or the standard so prescribed it shall be unlawful to use any car or vehicle in interstate or foreign traffic which does not comply with the standard so prescribed by the commission. Apr. 14, 1910, c. 160, 3, 36 Stat. 298."

APPENDIX "C".

Regulations Adopted by the Interstate Commerce Commission in Pursuance of Sections 11 and 12, Title 45, United States Code.

Section 131.8 (Page 203) Code of Federal Regulations, Title 49—Transportation.

TANK CARS WITHOUT SIDE-SILLS AND TANK CARS WITH SHORT SIDE-SILLS AND END-PLATFORMS.

Hand-Brakes.

Number:

Same as specified for "Box and other house cars."

Dimensions:

Same as specified for "Box and other house cars."

Location:

Each hand-brake shall be so located that it can be safely operated while car is in motion.

The brake-shaft shall be located on end of car to the left of center.

Manner of Application:

Same as specified for "Box and other house cars."

RUNNING BOARDS.

Number:

One (1) continuous running-board around sides and ends; or two (2) running full length on tank, one (1) on each side.

Dimensions:

Minimum width on sides, ten (10) inches.

Minimum width on ends, six (6) inches.

Location:

Continuous around sides and ends of cars. On tank cars having end platforms extending to bolsters, running-boards shall extend from center to center of bolsters, one (1) on each side.

Manner of Application:

If side running-boards are applied below center of tank, outside edge of running-boards shall extend not less than seven (7) inches beyond bulge of tank.

The running-boards at ends of car shall be not less than six (6) inches from a point vertically above the inside face of knuckle when closed with coupler-horn against the buffer-block, end-sill or back-stop.

Running-boards shall be securely fastened to tank or tank-bands.

SILL-STEPS.

Number:

Same as specified for "Box and other house cars."

Dimensions:

Same as specified for "Box and other house cars."

Location:

One (1) near each end on each side under side-hand-hold.

Outside edge of tread of step shall be not more than four (4) inches inside of face of side of car, preferably flush with side of car.

Tread shall be not more than twenty-four (24) preferably not more than twenty-two (22), inches above the top of rail.

Manner of application:

Same as specified for "Box and other house cars."

LADDERS.

(If running-boards are so located as to make ladders necessary)

Number:

Two (2) on cars with continuous running-boards.

Four (4) on cars with side running-boards.

Dimensions:

Minimum clear length of tread, ten (10) inches.

Maximum spacing of treads, nineteen (19) inches.

Hard-wood treads, minimum dimensions, one and one-half (1½) by two (2) inches.

Wrought iron or steel treads, minimum diameter, five-eighths (⅝) of an inch.

Minimum clearance, two (2) preferably two and one-half (2½) inches.

Location:

On cars with continuous running-boards, one (1) at right end of each side.

On cars with side running-boards, one (1) at each end of each running-board.

Manner of application:

Ladders shall be securely fastened with not less than one-half (½) inch bolts or rivets.

SIDE-HANDHOLDERS.

Number:

Four (4) or more.

Dimensions:

Same as specified for "Box and other house cars."

Location:

Horizontal: One (1) on face of each side-sill near each end on tank cars with short side-sills, or one (1) attached to top of running-board projecting outward above sill-steps or ladders on tank cars without side-sills. Clearance of outer end of handhold shall be not more than twelve (12) inches from end of car.

If side safety-railings are attached to tank or tank-bands four (4) additional sill vertical handholds shall be applied, one (1) as nearly as possible over each sill-step and securely fastened to tank or tank-band.

Manner of application:

Same as specified for "Box and other house cars."

END HANDHOLDS.

Number:

Four (4).

Dimensions:

Same as specified for "Box and other house cars."

Location:

Horizontal: One (1) near each side of each end of car on face of end-sill. Clearance of outer end of handhold shall be not more than sixteen (16) inches from side of car.

Manner of application:

Same as specified for "Box and other house cars."

TANK-HEAD HANDHOLDS.

Number:

Two (2). (Not required if safety-railing runs around ends of tank.)

Dimensions:

Minimum diameter five-eighths (⅝) of an inch, wrought-iron or steel.

Minimum clearance two (2), preferably two and one-half (2½) inches.

Location:

Horizontal: One (1) across each head of tank not less than thirty (30) nor more than sixty (60) inches above platform on running-board. Clear length of handholds shall extend to within six (6) inches of outer diameter of tank at point of application.

Manner of application:

Tank-head handholds shall be securely fastened.

SAFETY-RAILINGS.

Number:

One (1) running around sides and ends of tank or two (2) running full length of tank.

Dimensions:

Minimum diameter, seven-eighths (⅞) of an inch, wrought iron or steel.

Minimum clearance, two and one-half (2½) inches.

Location:

Running full length of tank not less than thirty (30) nor more than sixty (60) inches above platform or running-board.

Manner of application:

Safety-railings shall be securely fastened to tank or tank-bands and secured against end shifting.

End-Ladder Clearance.

No part of car above end-sills within thirty (30) inches from side of car, except buffer-block, brake-shaft brackets, brake-wheel, running-boards or uncoupling-lever shall extend to within twelve (12) inches of a vertical plane parallel with end of car and passing through the inside face of knuckle when closed with coupler-horn against the buffer-block or end-sill, and no other part of end of car or fixtures on same, above end-sills, other than exceptions herein noted, shall extend beyond the outer face of buffer-block.

Uncoupling-Levers.

Same as specified for "Box and other house cars."

APPENDIX "D"

Regulations Adopted by the Interstate Commerce Commission Pursuant to Sections 11 and 12, Title 45, United States Code.

Section 131.9 (Page 205). Code of Federal Regulation, Title 49.—Transportation.

TANK CARS WITHOUT END-SILLS.

HAND-BRAKES.

Number:

Same as specified for "Box and other house cars."

Dimensions:

Same as specified for "Box and other house cars."

Location:

Each hand-brake shall be so located that it can be safely operated while car is in motion. The brake-shaft shall be located on end of car to the left of center.

Manner of application:

Same as specified for "Box and other house cars."

BRAKE-STEP.

Same as specified for "Box and other house cars."

RUNNING-BOARDS.

Number:

One (1)

Dimensions:

Minimum width on sides, ten (10) inches.

Minimum width on ends, six (6) inches.

Location:

Continuous around sides and ends of tank.

Manner of application:

If running-boards are applied below center of tank, outside edge of running-board shall extend not less than seven (7) inches beyond bulge of tank.

Running-boards at ends of car shall be not less than six (6) inches from a point vertically above the inside face of knuckle when closed with coupler-horn against the buffer-block, end-sill or back-stop.

Running-boards shall be securely fastened to tank or tank-bands.

SILL-STEPS.

Number:

Four (4). If tank has high running-boards, making ladders necessary, sill-steps must meet ladder requirements.

Dimensions:

Same as specified for "Box and other house cars."

Location:

One (1) near each end on each side, flush with outside edge of running-board as near end of car as practicable.

Tread not more than twenty-four (24) preferably not more than twenty-two (22) inches above the top of rail.

Manner of application:

Steps exceeding eighteen (18) inches in depth shall have an additional tread and be laterally braced.

Sill-steps shall be securely fastened with not less than one-half (½) inch bolts with nuts outside (when possible) and riveted over, or with one-half (½) inch rivets.

SIDE-HANDHOLDS.

Number:

Four (4) or more.

Dimensions:

Same as specified for "Box and other house cars."

Location:

Horizontal: One (1) near each end on each side of car over sill-step on running-board, not more than two (2) inches back from outside edge of running-board, projecting downward or outward.

Where such side-handholds are more than eighteen (18) inches from end of car, an additional handhold must be placed near each end on each side not more than thirty (30) inches above center line of coupler.

Clearance of outer end of handhold shall be not more than twelve (12) inches, from end of car.

If safety-railings are on tank, four (4) additional vertical handholds shall be applied, one (1) over each sill-step on tank.

Manner of application:

Same as specified for "Box and other house cars."

END-HANDHOLDS.

Number:

Four (4).

Dimensions:

Same as specified for "Box and other house cars."

Location:

Horizontal: One (1) near each side of each end of car on running-board, not more than two (2) inches back from edge of running-board projecting downward or outward, or on end of tank not more than thirty (30) inches above center line of coupler.

Manner of application:

Same as specified for "Box and other house cars."

SAFETY-RAILINGS.

Number:

One (1).

Dimensions:

Minimum diameter seven-eighths (⅞) of an inch, wrought iron or steel.

Minimum clearance two and one-half (2½) inches.

Location:

Safety-railings shall be continuous around sides and ends of car; not less than thirty (30) nor more than sixty (60) inches above running-board.

Manner of application:

Safety-railings shall be securely fastened to tank or tank-bands, and secured against end shifting.

Uncoupling Levers.

Number:

Same as specified for "Box and other house cars."

Dimensions:

Same as specified for "Box and other house cars," except that minimum length of uncoupling-lever shall be forty-two (42) inches, measured from center line of end of car to handle of lever.

Location:

Same as specified for "Box and other house cars," except that uncoupling-lever shall be not more than thirty (30) inches above center line of coupler.

End-Ladder Clearance.

No part of car above buffer-block within thirty (30) inches from side of car, except brake-shaft, brake shaft brackets, brake-wheel or uncoupling-lever shall extend to within twelve (12) inches of a vertical plane parallel with end of car and passing through the inside face of knuckle when closed with coupler-horn against the buffer-block or back-stop, and no other part of end of car or fixtures on same, above buffer-block, other than excepts herein noted, shall extend beyond the face of buffer-block.